



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 26, 1995

Ms. Alesia L. Sanchez  
Legal Assistant  
Legal and Compliance, MC110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR95-227

Dear Ms. Sanchez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31076.

The Texas Department of Insurance (the "department") received a request for all of its records about a certain agent. You assert that the department may withhold the requested information based on section 552.103 of the Government Code.

Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

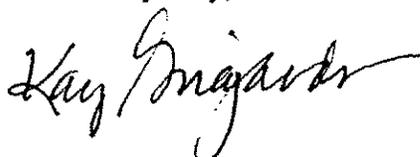
To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991). In this instance you

have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.<sup>1</sup>

However, we note that the potential opposing party has had access to some of the requested information. When the opposing parties in anticipated litigation have seen or had access to requested information, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). We have marked the documents to which section 552.103 does not apply.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 31076

Enclosures: Marked documents

cc: Mr. Rodney Lewis Hearn  
1500 Garland  
Plainview, Texas 79072  
(w/o enclosures)

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<sup>1</sup>The applicability of section 552.103(a) ends once the litigation is concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). We have marked two items of information that the department must not release even when the litigation is concluded. This information is protected from required public disclosure pursuant to section 552.101 and the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977).